

**No. 24-3893**

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**IN THE UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT**

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IN RE: SUBPOENA TO REDDIT, INC.

REDDIT, INC.

*Interested Party-Appellee,*

v.

KILLING LINK DISTRIBUTION, LLC AND CHAPTER 7 TRUSTEE  
GEORGE L. MILLER

*Movants-Appellants,*

VOLTAGE HOLDINGS, LLC

*Movant*

On Appeal from the United States District Court  
for the Northern District of California  
No. 1:24-mc-80005-JD  
Hon. James Donato

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**APPELLANTS' REPLY BRIEF**

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## INTRODUCTION

To help prove that the Internet service provider Frontier is secondarily liable for its users' massive copyright infringements of Appellants' movies, Appellants served Reddit a Rule 45 subpoena that merely requested the Internet Protocol ("IP") addresses of six Reddit users who boasted on Reddit's social media forums of using Frontier's Internet service for piracy. Nothing more. No request for the Reddit users' names, physical addresses or email addresses. Reddit and Amicus do not dispute that the IP addresses sought are relevant to Appellants' copyright infringement case against Frontier but, rather, just take issue with the degree of relevance. Three of the six Reddit users even boasted in Reddit's self-identified "piracy" forum.

Second, Reddit does not dispute that it did not object to the subpoena based upon undue burden to itself. Reddit also does not dispute that there is absolutely no evidence on the record that it will be burdened by complying with the subpoena.

Third, the District Court's conclusion that the relevance of the IP addresses was weak was based upon a flawed interpretation of the DMCA's safe harbor and a failure to even consider the elements of vicarious and direct copyright infringement. Accordingly, the District Court's decision to quash the Rule 45 subpoena based upon a burden to Reddit that undisputably does not exist should be reversed.

Fourth, Reddit and Amicus argue that the Rule 45 subpoena should alternatively be quashed under First Amendment precedent protecting anonymous speech in non-copyright context. But not a single Reddit user objected to disclosure of their IP addresses. And Reddit and Amicus fail to establish that disclosing IP addresses amounts to unmasking. Nonetheless, their argument runs headfirst into the Supreme Court's decision in *Metro-Goldwyn-Mayer Studios, Inc. v. Grokster, Ltd.*, 545 U.S. 913, 125 S. Ct. 2764, 162 L. Ed. 2d 781 (2005) that statements can be probative of an intent to induce infringement. Their argument also ignores this Court's decision in *United States v. Barnett*, 667 F.2d 835, 842-843 (9th Cir. 1982) that the First Amendment does not protect speech explaining how to make illegal drugs or violate federal income tax laws. Accordingly, the Court should reject Reddit's alternative basis for quashing the Rule 45 subpoena.

**I. REDDIT CANNOT POINT TO ANY BURDEN OR REBUT THE RELEVANCE OF THE IP ADDRESSES.**

Reddit argues that the District Court weighed the relevance of the evidence of the IP addresses of Reddit users boasting of piracy on Frontier and whether the same IP addresses were available from Frontier against the burden to it per Rules 26 and 45. *See* Reddit Br. at ECF 16.<sup>1</sup> But Reddit cannot point to any evidence on the record of burden to it for complying with the subpoena. Nor does Reddit dispute Appellants' point that Reddit waived any objection based upon undue burden to it by failing to object to the subpoena based upon undue burden or make such an argument in its briefs in the District Court. Thus, any proper weight comparison should have been against a weight of zero to Reddit in the burden category. Accordingly, the District Court's conclusion to quash the subpoena based upon undue burden was illogical, implausible, and without support in inferences drawn from the facts in the record and therefore an abuse of discretion.

Reddit also does not dispute Appellants' point that the District Court applied the wrong legal rule in ascertaining relevance because the District Court did not even consider the relevance of the IP addresses to proving that Frontier is secondarily liable for its subscribers' direct infringements under vicarious and

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<sup>1</sup> Appellants are citing the ECF pagination of briefs.



contributory infringement. Therefore, the District Court's conclusion to quash the subpoena based upon undue burden was also an abuse of discretion for applying the wrong legal rule.

**A. The standard of review of the District Court's legal conclusions is *de novo*.**

In contesting Appellants' assertion that the District Court's interpretation of law should be reviewed *de novo*, Reddit argues that Appellants failed to set forth what legal rule the District Court wrongly applied or the Rule of Civil Procedure that was misinterpreted. *See* Reddit Br. at ECF 14. However, Appellants pointed out that the District Court: (i) failed to consider if the evidence sought proved elements of direct copyright infringement or vicarious infringement; and (ii) wrongly focused on whether the evidence sought was essential for rebutting Frontier's 17 U.S.C. §512(i)(1)(A) safer harbor without considering all the Rule 26(b)(1) factors (besides merely paying lip service to them). *See* Opening Br. at ECF 32. Reddit does not even dispute point (i) or that the evidence sought will prove direct copyright infringement and vicarious infringement. And for (ii), even the District Court's evaluation of whether the evidence rebutted Frontier's safe harbor turns on its flawed interpretation of §512(i)(1)(A). Because the decision was based on a question of law, the District Court's decision to quash the subpoena

should be reviewed *de novo*. *See Cacique, Inc. v. Robert Reiser & Co.*, 169 F.3d 619, 622 (9th Cir. 1999).

**B. Reddit does not dispute that it failed to object based upon undue burden or offer any evidence of burden.**

Reddit does not dispute that there is absolutely no evidence in the record (such as, for example, time or costs incurred for production) that it would be unduly burdened by complying with the subpoena. Instead, Reddit first attempts to recast the District Court’s decision as stating that any burden was undue because the subpoena had such little probative value. *See* Reddit Br. at ECF 22. Notably, Reddit does cite any portion of the transcript or order supporting this fiction. And this argument is belied by Reddit’s failure to object to the subpoena based upon burden or lack of relevance. Zero burden is zero.

Second, Reddit plays word games by arguing that it “absolutely raised the burden on the First Amendment rights of its user”. Reddit Br. at ECF 22. Reddit’s word game fails because the word “burden” does not even appear in its objections. *See* ER\_142-ER\_143. Nor does the word “burden” appear in Reddit’s opposition to Appellants’ motion to compel. *See* ER\_89-ER\_102. Nonetheless, there is a difference between an undue burden to Reddit under Rule 45(c)(3) which was the District Court’s basis for quashing the subpoena and Reddit’s objection based upon purported First Amendment implications to Reddit users. *See* *Nw. Mem’l Hosp. v.*

*Ashcroft*, 362 F.3d 923, 927 (7th Cir. 2004) (When determining if a burden is undue, the court must ask whether “the burden of compliance with [the subpoena] would exceed the benefit of production of the material sought by it.”).

Nonetheless, assuming *arguendo* that Reddit’s objection based upon First Amendment rights of its users is a burden to it, Reddit’s counsel failed to object to the District Court’s complete rejection of its First Amendment argument. *See* ER\_17 (“I don’t think this is a First Amendment case. It’s plain as day that these people were saying that they were involved in copyright infringement, and First Amendment does not protect infringing conduct.”). Because Reddit failed to object or even file a cross-appeal, Reddit has waived any argument against the District Court’s factual finding that the Reddit comments do not implicate the First Amendment to the extent this is Reddit’s undue burden. *See Freytag v. C.I.R.*, 501 U.S. 868, 879, 111 S. Ct. 2631, 115 L. Ed. 2d 764 (1991) ([A]s a general matter, a litigant must raise all issues and objections” before the trial court.); *Jules Jordan Video, Inc. v. 144942 Canada Inc.*, 617 F.3d 1146, 1160 (9th Cir. 2010) (Thus, absent an objection and alternative form, defendants failed to properly object at trial under Fed. R. Civ. P. 51).

With zero evidence to point to in support of the District Court’s incorrect conclusion that it is burdened by the subpoena, Reddit is left to make the conclusory statement that “Numerous courts have quashed subpoenas to non-



parties similar to this one.” Reddit Br. at ECF 23. But in none of the cases cited by Reddit was the subpoena quashed based upon purported burden to the recipient.<sup>2</sup>

**C. Reddit fails to show that the subpoena did not request highly relevant information.**

Reddit asserts that the District Court correctly concluded that only six examples of Reddit users boasting of using Frontier’s service for piracy are largely irrelevant for proving that Frontier did not have an adequate repeat infringer policy. *See* Reddit. Br. at ECF 18. But the plain language of 17 U.S.C. §512(i)(1)(A) requires “...a policy that provides for the termination in appropriate circumstances of subscribers and account holders of the service provider’s system or network who are repeat infringers.” §512(i)(1)(A) does not set a low threshold number of repeat infringers below which an ISP can ignore and still maintain its

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<sup>2</sup> In *Pac. Century Int’l, Ltd. v. Doe*, 282 F.R.D. 189, 195 (N.D. Ill. 2012) the District Court quashed subpoenas after concluding that the purpose of the discovery requests were to use in proceedings other the pending lawsuit. In *W. Coast Prods. v. Swarm Sharing Hash Files*, No. 6:12-cv-1713, 2012 U.S. Dist. LEXIS 116722, at \*6 (W.D. La. Aug. 16, 2012) the Court quashed the subpoena for misjoinder. In *Gilead Scis., Inc. v. Khaim*, No. 24-CV-4259, 2024 U.S. Dist. LEXIS 201355, at \*28-29 (E.D.N.Y. Nov. 5, 2024) the Court quashed the subpoena because the movant did not first attempt to obtain the information by other means prior to engaging in the current motion practice. In *In re Reddit, Inc.*, 671 F. Supp. 3d 1022 (N.D. Cal. 2023) (“*Reddit I*”) and *In re Subpoena To: Reddit, Inc.*, No. 3:23-mc-80173-LB, 2023 WL 4849434 (N.D. Cal. July 29, 2023) (“*Reddit II*”) the Court quashed the subpoenas that requested identifications based upon First Amendment.

safe harbor. And Courts narrowly construe the DMCA’s safe harbors just like all immunities from liability. *See Capitol Records, Inc. v. MP3tunes, LLC*, 821 F. Supp. 2d 627, 636 (S.D.N.Y. 2011) (citing *United States v. Texas*, 507 U.S. 529, 534, 113 S. Ct. 1631, 123 L. Ed. 2d 245 (1993)); *Ventura Content, Ltd. v. Motherless, Inc.*, 885 F.3d 597, 622 (9th Cir. 2018) (Rawlinson dissenting) (“The safe harbor provision is basically an exception to the liability...As with any other exception, its parameters should be construed narrowly”). Thus, assuming *arguendo* that just six subscribers are repeat infringers, if Frontier failed to terminate these six subscribers in the appropriate circumstance, according to the plain language of §512(i)(1)(A) which is narrowly construed, Frontier fails to qualify for the safe harbor. The District Court’s conclusion that six example of customers that Frontier failed to terminate for repeat infringement does not “...come close to proving that they were unreasonable in their enforcement because it's just six”, ER\_14, has no basis in law. The IP addresses from where these Reddit users made these comments are highly relevant to proving that Reddit did not terminate these repeat infringers. Nonetheless, any comparison should be made between the number of DMCA notices attributable to these six customers versus the total number of DMCA notices Frontier received instead of to the thousands of Frontier customers as considered by the District Court. *See* ER\_17-

ER\_18. Appellants do not assert that every single Frontier customer is an infringer. The District Court's interpretation of §512(i)(1)(A) was erroneous.

Moreover, Reddit fails to respond to Appellants' point that the Second Circuit does not require infringing material to be a substantial draw to prove vicarious infringement or that Frontier can be liable for even just two instances of direct infringement. *See* Opening Br. at ECF 30-31. Accordingly, the IP addresses from where these Reddit users made these comments are highly relevant to proving Frontier's liability. Reddit also fails to respond to Appellants' point that the District Court was effectively punishing them for only requesting IP addresses for six users to limit the burden to Reddit rather than all the numerous Reddit users that boasted of using Frontier's service for piracy. *See id.* at ECF 29-30.

Reddit argues that the Court's decision to quash the subpoena was appropriate because the evidence only makes Appellants' claims "slightly more likely" and "is available from less burdensome alternative sources". Reddit Br. at ECF 19. Reddit cites this Court's decisions of *Reza v. Pearce*, 806 F.3d 497, 508 (9th Cir. 2015) and *Cacique*, 169 F.3d at 622-25 (9th Cir. 1999) in support of this position. *Reza* and *Cacique* are inapposite. In *Reza* this Court stated that a District Court's decision to issue a protective order to an Arizona state Senator was not an abuse of discretion because the evidence the movant sought of the Senator's purported relationship with a white supremacist was available from public records

and, most importantly, would not be admissible under FRE 403. *See Reza* at 508. In the present case, Appellants cannot obtain the IP addresses of the Reddit users from public records or Frontier. And the District Court and Reddit do not even assert that the IP addresses used by the Reddit users would not lead to admissible evidence. In *Cacique* this Court reversed a District Court's decision compelling discovery of a third-party's sales information because it was based upon a flawed conclusion that the Plaintiff could even obtain the remedy (reasonably royalty) sought under California law. *See Cacique* at 622. Such is not the case here.

**D. Reddit fails to show that the Appellants could obtain IP addresses for the Reddit users from Frontier.**

Reddit does not contest Appellants' point that they could not get information from top infringers prior to Sept. 2, 2019 because Frontier did not retain this information. Rather, Reddit argues that this point is inconsistent with Appellants' statement cited by the Magistrate Judge. *See* Reddit Br. at ECF 21. Not true. Although the Magistrate Judge's opinion stated that Appellants have "pirating IP addresses" it did not state Appellants had the top infringers. ER\_69. Further, Frontier did not admit that it had deleted customer information prior to September of 2019 until *after* January 2024 briefing before the Magistrate Judge. *See* ECF 14.3 at 3 (FN2) (Frontier argues that it did not deceive Appellants by first telling them in March 2024 that it never had customer information for certain IP addresses



to begin with and then later informing Appellants that it did previously have it but was deleted per Frontier's 18 month IP address customer assignment retention policy). Nonetheless, Appellants pointed out that Reddit's assumption that they would obtain data on the top infringers from Frontier was premature. *See* ER\_25, ER\_59. And, in the end, Frontier admitted that it not only did not retain data prior to September 2, 2019 but also did not retain *any* IP address assignment records through discovery. *See* Ex. "1" [ECF 14.3] to Req. for Judicial Notice at 5 (Frontier argues it did not know it needed to preserve IP address assignment records from its RADIUS database). Not only can Appellants not obtain identification of most of the Frontier subscribers who were subject of notices from Frontier, but for the 80 subscribers Frontier did disclose, Frontier could not even timely produce IP address assignment records prior to 2022.

Reddit does not dispute that Appellants cannot obtain the IP addresses of the Reddit users from Frontier or even IP addresses of top infringers from Frontier. Rather, Reddit cites *Hallet v. Morgan*, 296 F.3d 732 (9th Cir. 2002) and argues that Appellants must show substantial prejudice to set aside the District Court's finding. *See* Reddit Br. at ECF 21. However, *Hallet* and the case *Sablan v. Dep't of Fin.*, 856 F.2d 1317, 1321 (9th Cir. 1988) whose language it quotes concern a decision whether to open discovery post-judgment or allow jurisdictional discovery. Thus, the substantial prejudice language in *Hallet* and *Sablan* concerns

whether to permit discovery at all – not concerning whether the discovery at issue satisfies Rule 26 as in the present case.

Nonetheless, Appellants have suffered substantial prejudice. The Reddit users are self-described top infringing subscribers of Frontier. With their IP addresses, Appellants will be able to ascertain how many notices *from all copyright holders* were sent to Frontier concerning these Reddit subscribers. Particularly, because Frontier did not retain records of IP address assignment records, Appellants will be able to prove from records from Reddit that the IP address at issue was assigned to the same subscriber for the duration of time that the DMCA notices were sent to Frontier and that the subscriber's service was never terminated. Thus, Appellants will further be able to prove that Frontier failed to reasonably implement a repeat infringer policy by pointing to the IP addresses for the Reddit users. The Reddit subscribers' admissions will rebut Frontier's argument that Appellants cannot prove direct infringement.

Ultimately, Reddit and Appellant do not disagree that the subpoena requests relevant information, only the degree of relevance. But in view of the undisputed fact that Reddit has not shown burden of compliance with the subpoena, the District Court's decision that the burden outweighed relevance was an abuse of discretion and should be reversed.

## **II. REDDIT FAILS TO ESTABLISH THAT THE SUBPOENA SHOULD BE QUASHED BASED UPON FIRST AMENDMENT**

Besides calling the District Court’s *factual* conclusion that disclosure of IP addresses of the Reddit users’ comments did not implicate the First Amendment “wrong”, Reddit at ECF 20, Reddit and Amicus fail to set forth any argument that the District Court’s factual finding was an abuse of discretion. Nonetheless, Reddit and Amicus fail to make the requisite legal showing that the subpoena chills any protected speech.

### **A. Reddit and Amicus fail to establish that disclosure of IP addresses amounts to unmasking or will result in harassment of Reddit users or chilling of legitimate speech.**

Reddit argues that Appellants’ subpoena “seeks to unmask anonymous Redditors for engaging in constitutionally protected speech” and should alternatively be quashed under the First Amendment. Reddit. Br. at ECF 24. Appellants’ mere request for IP addresses does not unmask anyone. Reddit retains other information that better identifies a user such as email addresses and telephone numbers that Appellants did not request. *See* ER\_80 - ER\_81 (noting Reddit may store email addresses and phone number). Besides citing (in a footnote) three unpublished District Court opinions where the subpoena requested more than IP addresses, *see* Reddit Br. at ECF 30 (FN3), Reddit fails to explain

how mere disclosure of IP addresses amounts to unmasking. And Reddit ignores Appellants' quote of numerous circuit court decisions establishing that users do not have any right of privacy in their IP addresses. *See* Opening Br. at ECF 38. Rather, Reddit just pretends that Appellants requested identifications. *See* Reddit Br. at ECF at 8 (mis-framing issue as a subpoena seeking to learn identities).

Reddit and Amicus have also failed to make the requisite *prima facie* showing that disclosure of IP addresses will result in (1) harassment, membership withdrawal, or discouragement of new Reddit users, or (2) other consequences which objectively suggest an impact on, or chilling of, the Reddit users' associational rights. *See Perry v. Schwarzenegger*, 591 F.3d 1147, 1160 (9th Cir. 2010). Indeed, Reddit has failed to present any evidence at all. Rather, Reddit just makes the conclusory statement that Appellants' "ultimate goal is to chill Redditors' lawful speech" just because each of Appellants were movants in a different case involving Reddit.<sup>3</sup> Reddit Br. at ECF 12. And the Amicus merely cites Reddit's same conclusory statement in support of its baseless conclusion that Appellants somehow have a "history of harassing other unmasked Does, may not even be sought in good faith." Amicus Br. at ECF 10. Despite Amicus citing

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<sup>3</sup> But Appellant Screen Media Ventures, LLC (George Miller) was not a movant in *Reddit I* and former Appellant Killing Link Distribution, Inc. was not a movant in *Reddit II*.



numerous publicized incidents in which other copyright holders allegedly abused the DMCA take down process, Amicus cannot point to a single incident in which Appellants were even accused of similar behavior.

The Amicus speculates that “...an IP address may reveal that a user has multiple accounts or usernames with Reddit...”. Amicus Br. at ECF 15. But Amicus fails to explain how disclosure of IP address logs of a Reddit user will disclose the Reddit user’s *other* usernames. Reddit does not publish the IP addresses used by Reddit users. If such was the case, Appellants never would have served a subpoena on Reddit. And Appellants did not request other usernames of the Reddit users in their subpoena.

Neither Reddit nor Amicus have established that the IP address information Appellants request in the subpoena amounts to unmasking or that the discovery request will chill legitimate speech. Thus, this Court does not need to consider any First Amendment implications.

**B. The Reddit users’ boasts of copyright infringement are not protected by the First Amendment.**

The Reddit users’ comments are not protests of copyright laws or even discussion of copyright laws as described by Reddit but boasts of “deliberate unlawful copying [that] is no less an unlawful taking of property than garden-variety theft.” *Metro-Goldwyn-Mayer Studios Inc. v. Grokster, Ltd.*, 545 U.S. 913,

961, 125 S. Ct. 2764, 2793 (2005). Accordingly, to the extent the comments receive any First Amendment protection at all, the protection should be less than that for commercial speech. And, the comments are boasts of unlawful activity and even advice on how to continue the unlawful activity – just like instructions to make drugs or violate Federal income tax laws that this Court stated are not speech protected by the First Amendment. *See Barnett*, 667 F.2d at 842-843 (9th Cir. 1982). For example, after Reddit user Sankerin received a DMCA notice from Frontier, he posted the comment: “I’ve been pirating for over 2 years...how do I not get caught again?” ER\_137. Reddit user Cyb3rR3b0rn posted in Reddit’s Piracy forum: “I’ve gotten two [DMCA Notices] this last week. One for a movie, which I thought was just because I used 1337x to find the torrent...I just got one for a game as well which I got from ThePirateBay....”. ER\_135. Reddit lightly describes Cyb3rR3b0rn and Sankerin’s boasts of piracy as advocacy and discussion about copyright infringement. *See* Reddit Br. at ECF 25-26. However, these comments are the type of statements the Supreme Court has stated are evidence of affirmative intent and encouragement of infringement. *See Grokster, Ltd.*, 545 U.S. at 918. Accordingly, the Reddit users’ boasts of unlawful copyright infringement should not receive any First Amendment protection particularly since

copyright law<sup>4</sup> has built-in free speech safeguards such as fair use adequate for addressing free speech concerns. *See Eldred v. Ashcroft*, 537 U.S. 186, 219, 123 S. Ct. 769, 788-89 (2003). The Amicus states it is unaware of “any Court, much less this Court, that has suggested that the First Amendment does not apply to any speech *discussing* illegal activity.” Reddit Br. at ECF 11. But this Court, quoting the Supreme Court, has stated that commercial speech does not enjoy limited First Amendment protection if it is related to unlawful activity. *See Anonymous Online Speakers v. United States Dist. Court (In re Anonymous Online Speakers)*, 661 F.3d 1168, 1173 (9th Cir. 2011) (“*Anonymous*”).

The Amicus argues that the Sixth Circuit’s decision in *Signature Mgmt. Team, LLC v. DOE*, 876 F.3d 831 (6th Cir. 2017) is applicable. *See* Amicus Br. at ECF 13-14. Appellants disagree. In *Signature* the Sixth Circuit rejected the Plaintiff’s request to publicly disclose the Doe Defendant’s identification because the Defendant had certified that he had complied with the judgment by destroying infringing copies. *See id.* at 835. The Doe Defendant in *Signature* ran an anonymous blog that included infringing content of the Plaintiff copyright holder

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<sup>4</sup> Copyright is also recognized in the Constitution in Article I before clauses giving Congress the power to declare war and raise an army. *See* U.S. Const. art. I, §8, cl. 8. Copyright laws were foreseen by the framers of the Constitution as “the engine of free expression.” *Harper & Row Publishers, Inc., v. Nat’l Enters.*, 471 U.S. 539, 558, 85 L. Ed. 2d 588, 105 S. Ct. 2218 (1985).

and criticism of multi-level marketing companies. *See id. at 834.* Amicus and Reddit do not dare quote any specific example speech of Reddit users' boasts of copyright infringement in their briefs. None includes criticism of Appellants, Movie Studios or copyright laws such as in *Signature* that would even be arguably subject to First Amendment protection. Indeed, the one Reddit user comment Reddit does quote is from a different case (against the ISP RCN) unrelated to this Appeal. *See* Reddit. Br. at ECF 11. And in *Signature*, the Plaintiff's attorneys had the identification of the Defendant subject to a protective order. *See id. at 834.* Unlike the Plaintiff in *Signature*, Appellants are not even seeking the identifications of the Reddit users or to publicly disclose their identifications. Rather, Appellants are just requesting IP address information to prove that the comments were indeed made from Frontier subscribers. Moreover, unlike the Plaintiff in *Signature*, Appellants' underlying case against Frontier has not concluded and Frontier has not certified that it will cease permitting any further infringement of Appellants' Works like the anonymous Defendant in *Signature*.

**C. The 2<sup>nd</sup> *TheMart* test is not appropriate for copyright cases.**

Reddit does not dispute Appellants' point that this Court's decision in *Anonymous*, 661 F.3d at 1173 (9th Cir. 2011) instructs Courts to consider the nature of the speech in deciding a standard for balancing competing rights. *See* Opening Br. at ECF 38. Nonetheless, Reddit urges the Court to adopt the four-part



test of *Doe v. 2TheMart.com*, 140 F. Supp. 2d 1088 (W.D. Wash. 2001) that does not even consider the nature of the speech. *See* Reddit Br. at ECF 23-24. Any balancing test must require the Court to first examine the nature of the speech. And speech that is evidence of encouragement of copyright infringement as described by the Supreme Court in *Grokster* like the speech here should not receive any protection. But the Court need not consider the appropriate test here because Appellants are not seeking to unmask the Reddit users.

### CONCLUSION

For the foregoing reasons, the Court should reverse the District Court's Order quashing the Rule 45 subpoena.

Date: January 13, 2025

Culpepper IP, LLC

*s/ Kerry S. Culpepper*  
Kerry S. Culpepper

*Attorney for Appellants*

**UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT**

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